

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 16239-07171									
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>VIA EFS-WEB FROM PACIFIC TIME ZONE ON 9/27/07</u> Signature <u>/Daniel R. Brownstone 46,581/</u> Typed or printed name <u>Daniel R. Brownstone, Reg. No. 46581</u>		Application Number 10/055,870	Filed January 21, 2002								
		First Named Inventor Michael Saucier									
		Art Unit 3629	Examiner Jonathan P. Ouellette								
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; text-align: right; vertical-align: top;"><u>/Daniel R. Brownstone 46581/</u> Signature</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="text-align: right; vertical-align: top;"><u>Daniel R. Brownstone, Reg. No. 46581</u> Typed or printed name</td></tr><tr><td style="vertical-align: top;"><input checked="" type="checkbox"/> attorney or agent of record. 46581 Registration number _____</td><td style="text-align: right; vertical-align: top;"><u>415-875-2358</u> Telephone number</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="text-align: right; vertical-align: top;"><u>September 27, 2007</u> Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	<u>/Daniel R. Brownstone 46581/</u> Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>Daniel R. Brownstone, Reg. No. 46581</u> Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. 46581 Registration number _____	<u>415-875-2358</u> Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>September 27, 2007</u> Date
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<input type="checkbox"/> *Total of _____ forms are submitted.											

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Michael Saucier, *et al.*

APPLICATION NO.: 10/055,870

FILING DATE: January 21, 2002

TITLE: System and Method For Facilitating Transactions Between Product Brand Manager and Manufacturing Organizations

EXAMINER: Jonathan P. Ouellette

GROUP ART UNIT: 3629

ATTY. DKT. NO.: 16239-07171

CERTIFICATE OF EFS-Web Transmission			
Pursuant to 240 OG 45 and the <i>Legal Framework For EFS-Web</i> , I hereby certify that this follow-on correspondence is being officially submitted through the USPTO EFS-Web system from the Pacific Time Zone of the United States on the local date shown below.			
Signature:	/Daniel R. Brownstone 46581/		
Typed or Printed Name:	Daniel R. Brownstone	Dated:	September 27, 2007

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**REMARKS ACCOMPANYING
REQUEST FOR PRE-APPEAL BRIEF CONFERENCE**

Claims 1-77 and 84 are pending and stand rejected under 35 U.S.C. 103(a) as being obvious in view of Radjy et al. (US 2002/0010525 A1).

The claimed invention lets product brand managers discover information about which manufacturers possess the capability to manufacture a product brand, but holds the product brand information in confidence by not communicating it to the manufacturers, and preserving the manufacturing capabilities of the manufacturers in confidence by not disclosing to the product manager capabilities of those manufacturers not determined to be a match. Put another way, manufacturers do not know the product brand information, and

product brand managers do not know the manufacturers capabilities—the product brand managers know only that certain identified manufacturers have the capability needed for the product brand. This maximizes the confidentiality for both the product brand and manufacturing sides, since neither has to disclose their needs or capacity, respectively, to the other.

The Examiner has admitted that Radjy does not disclose the elements of claim 1. Radjy discloses a “concrete exchange” for providing feedback about concrete batch information to suppliers and purchasers. In the first of two ways described by Radjy for associating an AEC with a manufacturer, an AEC can “utilize the concrete exchange system to locate the necessary suppliers for his concrete on his own” (Radjy, [0130]). In an alternative arrangement, “the AEC may post a request for information . . . Then, a sales or technical services representative 516 from the target (prospective concrete manufacturer) company will preferably contact the AEC to discuss the project” ([0131]).

In each of the scenarios described by Radjy, either the AEC, the concrete manufacturers, or both are required to make known their needs and abilities to the other party in order to determine whether a match is possible. That is, there is no teaching in Radjy of “determining a set of candidate manufacturing organizations for the product brand . . . without providing the product brand information to the manufacturing organizations,” as claimed.

The Examiner’s response to this deficiency is that the difference between Radjy and the claimed invention is merely an automation step that “gives you just what you would expect from the manual step disclosed by Radjy (Para 0130)” (Final Office Action, p. 3). Such is not the case.

In the “manual step” of Radjy, the AEC sorts through the concrete exchange system to locate suppliers of interest. Necessarily, the AEC is reviewing details of the manufacturers’ production abilities in order to select which are of interest. Alternatively, the AEC can post a request for information (RFI) that is converted into a concrete exchange-based format and provided to the manufacturers. In both cases, information from one party is being shared with one or more of the other parties, either about production needs or production capabilities.

The claimed invention enables the matching of brand managers with manufacturing organizations without the broad disclosure of information required by Radjy. The set of candidate manufacturing organizations is determined “without providing the product brand information to the manufacturing organizations or the manufacturing process capabilities to the product brand managers”.

As described in Applicants’ written description, “communication of the product brand information often poses a risk of that information being compromised or misappropriated. If the product brand manager wishes to contact a number of manufacturing organizations to inquire about the possibility of enlisting them [to] undertake the manufacture, this typically will result in this sensitive information being placed in the hands of an actual or potential competitor” (Specification [0014]).

Thus, contrary to the Examiner’s assertion that “the end result is the same as compared to the manual method,” the use of the claimed method preserves sensitive information of the parties in greater confidence, directly addressing the problem identified above, and patentably distinct from what is taught by Radjy.

Dependent claims 2-77 are also patentable over Radjy, both because each recites its own patentable features, and because each depends from patentable claim 1.

Independent claim 84 is similarly patentable over Radjy. As discussed above with respect to claim 1, Radjy does not disclose a “transactional computer system adapted to . . . make the selection of the at least one candidate manufacturing organization without providing the product brand information to the manufacturing organizations or the manufacturing organization information to the product brand manager” as claimed. Accordingly, claim 84 is patentable over Radjy and the rejection should be withdrawn.

Respectfully submitted,
MICHAEL SAUCIER *ET AL.*

Dated: September 27, 2007

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